



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/014,096 02/04/93 HUSTON J CRP-008DV(20)

PATENT ADMINISTRATOR  
TESTA, HURWITZ & THIBEAULT  
53 STATE STREET  
BOSTON, MA 02109

18N2/0705

EXAMINER	
U.M.-J	
ART UNIT	PAPER NUMBER
1812	26
DATE MAILED:	

07/05/94

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

#### ☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 mos. from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 6-30-94 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: none  
Claims objected to: none  
Claims rejected: 42-53, 54-61, 63-68

However:

☒ Applicant's response has overcome the following rejection(s): see attached

4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because \_\_\_\_\_
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other

BEST AVAILABLE COPY

Claims 47 to 68 are pending in the instant application. Upon the filing of an appeal the amendment filed 30 June of 1994 under 37 C.F.R. § 1.116 will be entered and claims 47 and 64 will be amended and claims 54, 55 and 62 will be canceled as requested therein.

The objection to the instant specification and the rejection of claims 54, 55 and 62 under 35 U.S.C. § 112, first paragraph, will be withdrawn upon entry of the amendment filed 30 June of 1994.

Applicant's arguments filed 30 June of 1994 have been fully considered but they are not deemed to be persuasive. These arguments are a recapitulation of the arguments which were answered at length in Paper Number 24 and which were found unpersuasive for the reasons given therein. The fact that Cousens et.al. described the linkers of subsequent fusion proteins as "hinge" linkers does not change the fact that the fusion proteins described in the working examples of the priority application contained flexible linkers to facilitate cleavage. The linker employed therein clearly meets Applicant's definition of a "hinge region" as presented on pages 6 and 7 of the instant specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Ulm at telephone number (703) 308-4008. The examiner can normally be reached on Monday through Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, G. D. Draper can be

Serial No. 08/014,096  
Art Unit 1812

-3-

reached on (703) 308-4232. The fax phone number for this group is (708) 305-3014.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



John D. Ulm



**GARNETTE D. DRAPER**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 1800**